

AGENDA MEMO

TO: Mayor & City Commission

AGENDA DATE: 12/13/2010

FROM: Faith G. Miller, City Manager

AGENDA ITEM: 7 - H

SUBJECT: Request for Approval of an Amendment to Conservation Easement for the Ledford Regional Stormwater System as required by St Johns River Water Management District.

LOCATION:

N/A

BACKGROUND:

The proposed easement is an amendment required by the St. Johns River Water Management District (SJRWMD) of the conservation easement granted several years ago by the City. The purpose of this proposed amended easement is to allow the City to construct wooden boardwalks and mulched trails for educational purposes through the properties previously placed under a conservation easement to the District.

The construction of these boardwalks and trails is part of the public educational aspects contained within the Florida Department of Environmental Protection (DEP) grant to the City for the construction of the Ledford Regional Stormwater System.

As mitigation for the environmental impacts, the City and District have agreed upon the inclusion of an additional 4.0529 acres of wetlands and 1.2677 uplands located at the southwest corner of the Ledford property. These wetlands are not usable to the City nor are they part of the Ledford Regional Stormwater System. Upon acceptance of this easement by the District governing board, the City will be in a position to proceed with Phase II of the Ledford Regional Stormwater System. There is no additional cost involved with amending this conservation easement.

**ORIGINATING
DEPARTMENT:**

Public Works/Deltona Water

SOURCE OF FUNDS:

N/A

COST:

N/A

REVIEWED BY:

Public Works Director, Legal Department

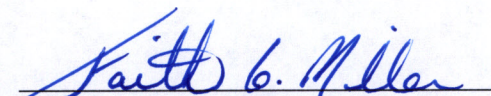
**STAFF
RECOMMENDATION
PRESENTED BY:**

Glenn Whitcomb, Public Works Director - Staff recommends approval and execution of the conservation easement amendment.

**POTENTIAL
MOTION:**

"I move for approval of the amendment to the conservation easement for the Ledford property as required by the St Johns River Water Management District."

**AGENDA ITEM
APPROVED BY:**


Faith G. Miller, City Manager

ATTACHMENTS:

- Ledford Amendment

Prepared by:
Gary J. Cooney
City of Deltona
2345 Providence Boulevard
Deltona, FL 32725

Return recorded original to:
Office of General Counsel
St. Johns River Water Management District
4049 Reid Street
Palatka, FL 32177

AMENDMENT TO
CONSERVATION EASEMENT

THIS AMENDMENT TO CONSERVATION EASEMENT is made this ____ day of _____, 2010, by the CITY OF DELTONA, a Florida municipal corporation, having an address at 2345 Providence Boulevard, Deltona, Florida ("Grantor"), in favor of the ST. JOHNS RIVER WATER MANAGEMENT DISTRICT, a public body existing under Chapter 373, Florida Statutes, having an address at 4049 Reid Street, Palatka, Florida 32177 ("Grantee").

RECITALS:

WHEREAS, Grantor executed a Corrective Conservation Easement dated September 16, 2004 and recorded in Official Records Book 5406, Pages 3895-3901, Public Records of Volusia County, Florida (hereinafter the "Conservation Easement") over certain property located in Volusia County, Florida in favor of the Grantee in accordance with the District Permit No. 4-127-87817-1; and

WHEREAS, Grantor desires to conduct the following activities prohibited by the conservation easement to wit: construction and maintenance of boardwalks and

mulched footpaths, and to utilize the existing, unimproved Ledford Road for ingress/egress; and

WHEREAS, Grantor and Grantee have mutually agreed that Grantor may conduct these activities in exchange for the addition of other environmentally sensitive lands to the Conservation Easement; and

WHEREAS, Grantee desires to allow certain activities prohibited by the Conservation Easement and Grantor desires to grant a conservation easement over additional lands owned by Grantor; and

WHEREAS, the parties intend to ratify the remainder of the Conservation Easement which is not subject to this amendment;

NOW THEREFORE, in consideration of the above and the mutual covenants, terms, conditions and restrictions contained herein, and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grantee hereby allows the construction and maintenance of boardwalks and mulched footpaths, and the use of the old Ledford Road for ingress/egress, as described in Exhibit "A".

2. In exchange for the allowance of the activities identified in paragraph 1 herein, Grantor hereby grants to Grantee a conservation easement over the property described in attached Exhibit "B" (the "Property") in order to off-set adverse impacts to natural resources, fish and wildlife, and wetland functions. However, Grantor retains the rights of access, maintenance, and operational activities with respect to that property

described in attached Exhibit C, which contains the drainage-way facility from the Grantor's property.

3. Reaffirmation. Except as specifically set forth herein, all provisions of the Conservation Easement and Permit No. 4-127-87817-1 shall remain unchanged and in full force and effect. The remainder of the property described in the Conservation Easement is unaffected by this Release and shall continue to be bound by the terms of said Conservation Easement.

4. Purpose. The purpose of this Conservation Easement is to assure that the Property will be retained forever in its existing natural condition and to prevent any use of the Property that will impair or interfere with the environmental value of the Property.

5. Prohibited Uses. Except for restoration, creation, enhancement, maintenance and monitoring activities, or surface water management improvements, which are permitted or required by the Permit, the following activities and uses are expressly prohibited on the Property:

(a) Construction or placing buildings, roads, signs, billboards or other advertising, utilities or other structures on or above the ground.

(b) Dumping or placing soil or other substance or material as landfill or dumping or placing of trash, waste or unsightly or offensive materials.

(c) Removing or destroying trees, shrubs, or other vegetation.

(d) Excavating, dredging or removing loam, peat, gravel, soil, rock or other material substances in such a manner as to affect the surface.

(e) Surface use, except for purposes that permit the land or water area to remain predominantly in its natural condition.

(f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation.

(g) Acts or uses detrimental to such retention of land or water areas.

(h) Acts or uses detrimental to the preservation of the structural integrity or physical appearance of sites or properties of historical, architectural, archaeological, or cultural significance.

6. Reserved Rights. Grantor reserves unto itself, and its successors and assigns, all rights accruing from its ownership of the Property, including the right to engage in or permit or invite others to engage in all uses of the Property that are not expressly prohibited herein and are not inconsistent with the purpose of this Conservation Easement.

7. Rights of Grantee. To accomplish the purposes stated herein, Grantor conveys the following rights to Grantee:

(a) To enter upon and inspect the Property in a reasonable manner and at reasonable times to determine if Grantor or its successors and assigns are complying with the covenants and prohibitions contained in this Conservation Easement.

(b) To proceed at law or in equity to enforce the provisions of this Conservation Easement and the covenants set forth herein, to prevent the occurrence of any of the prohibited activities set forth herein, and require the

restoration of areas or features of the Property that may be damaged by any activity inconsistent with this Conservation Easement.

8. Grantee's Discretion. Grantee may enforce the terms of this Conservation Easement at its discretion, but if Grantor breaches any term of this Conservation Easement and Grantee does not exercise its rights under this Conservation Easement, Grantee's forbearance shall not be construed to be a waiver by Grantee of such term, or of any subsequent breach of the same, or any other term of this Conservation Easement, or of any of the Grantee's rights under this Conservation Easement. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair such right or remedy or be construed as a waiver. Grantee shall not be obligated to Grantor, or to any other person or entity, to enforce the provisions of this Conservation Easement.

9. Grantee's Liability. Grantor will assume all liability for any injury or damage to the person or property of third parties which may occur on the Property arising from Grantor's ownership of the Property. Neither Grantor, nor any person or entity claiming by or through Grantor, shall hold Grantee liable for any damage or injury to person or personal property which may occur on the Property.

10. Acts beyond Grantor's Control. Nothing contained in this Conservation Easement shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the Property resulting from natural causes beyond Grantor's control, including, without limitation, fire, flood, storm and earth movement, or from any necessary action taken by Grantor under emergency conditions to prevent, abate or mitigate significant injury to the Property or to persons resulting from such causes.

11. Recordation. Grantor shall record this Partial Release and Amendment to Conservation Easement in timely fashion in the Official Records of Volusia County, Florida, and shall rerecord it at any time Grantee may require to preserve its rights. Grantor shall pay all recording costs and taxes necessary to record this Conservation Easement in the public records. Grantor will hold Grantee harmless from any recording costs or taxes necessary to record this Conservation Easement in the public records.

12. Successors. The covenants, terms, conditions and restrictions of this Conservation Easement shall be binding upon, and inure to the benefit of the parties hereto and their respective personal representatives, heirs, successors and assigns and shall continue as a servitude running in perpetuity with the Property. Grantee will hold this Conservation Easement exclusively for conservation purposes. Grantee will not assign its rights and obligations under this Conservation Easement

IN WITNESS WHEREOF, the parties have executed this Amendment to Conservation Easement on the day and year first above written.

Signed, sealed and delivered
in our presence as witnesses:

GRANTOR: City of Deltona

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Signature: _____

Printed Name: _____

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, as _____, who did not take an oath.

Notary Public, State of Florida at Large

My Commission Expires: _____

Signed, sealed and delivered
in our presence as witnesses:

**GRANTEE: ST. JOHNS RIVER
WATER MANAGEMENT DISTRICT**

Signature: _____

Signature: _____

Printed Name: _____

Printed Name: _____

Signature: _____

Printed Name: _____

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2010, by _____, who did not take an oath.

Notary Public, State of Florida at Large

My Commission Expires: _____

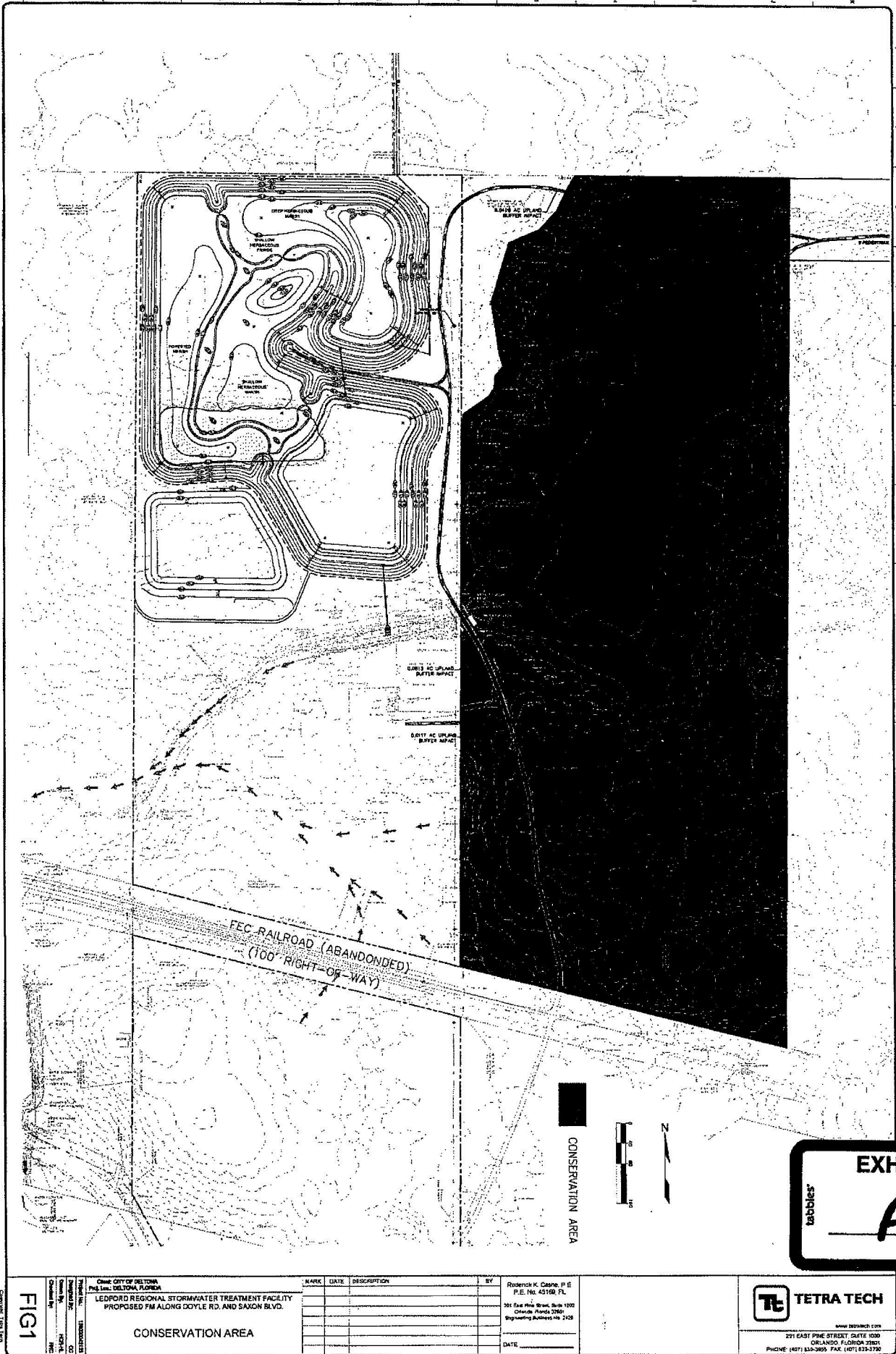


FIG1

Client: CITY OF DELTONA
 Project: LEDFORD REGIONAL STORMWATER TREATMENT FACILITY
 Proposed FM ALONG DOYLE RD. AND SAGON BLVD.

CONSERVATION AREA

MARK	DATE	DESCRIPTION	BY

Revised: K. Gane, P.E.
 P.E. No. 45159 FL
 381 East Pine Street, Suite 1000
 Orlando, Florida 32801
 Engineering Authority No. 2108
 DATE: _____

TETRA TECH
 221 EAST PINE STREET, SUITE 1000
 ORLANDO, FLORIDA 32801
 PHONE: (407) 534-3900 FAX: (407) 534-3790

EXHIBIT
A

THIS IS NOT A BOUNDARY SURVEY


LEGAL DESCRIPTION:

A TRACT OF LAND LYING WITHIN THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 19 SOUTH, RANGE 31 EAST, VOLUSIA COUNTY, FLORIDA BEING MORE DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST CORNER OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 19 SOUTH, RANGE 31 EAST; THENCE RUN N.00°24'01"E., ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 19 SOUTH, RANGE 31 EAST FOR A DISTANCE OF 1226.56 FEET TO THE POINT OF BEGINNING, SAID POINT OF BEGINNING ALSO BEING A POINT ON THE NORTH LINE OF AN ABANDONED 100' RAILROAD RIGHT-OF-WAY (FORMERLY KNOWN AS FEC RAILROAD) ; THENCE CONTINUE N.00°24'01"E., FOR A DISTANCE OF 401.01 FEET; THENCE N.83°34'22"E., FOR A DISTANCE OF 53.88 FEET; THENCE S.86°07'48"E., FOR A DISTANCE OF 95.61 FEET; THENCE N.83°32'53"E., FOR A DISTANCE OF 76.47 FEET; THENCE N.51°22'23"E., FOR A DISTANCE OF 63.17 FEET; THENCE N.72°53'32"E., FOR A DISTANCE OF 48.23 FEET; THENCE S.79°36'58"E., FOR A DISTANCE OF 47.47 FEET; THENCE S.16°27'55"W., FOR A DISTANCE OF 85.40 FEET; THENCE S.35°10'08"W., FOR A DISTANCE OF 70.94 FEET; THENCE S.34°45'23"W., FOR A DISTANCE OF 66.22 FEET; THENCE S.11°26'57"W., FOR A DISTANCE OF 44.08 FEET; THENCE S.47°26'13"E., FOR A DISTANCE OF 59.85 FEET; THENCE S.36°12'53"E., FOR A DISTANCE OF 28.48 FEET; THENCE N.83°55'39"E., FOR A DISTANCE OF 29.62 FEET; THENCE S.75°11'04"E., FOR A DISTANCE OF 88.25 FEET; THENCE N.72°53'18"E., FOR A DISTANCE OF 46.75 FEET; THENCE N.03°22'01"E., FOR A DISTANCE OF 21.83 FEET; THENCE N.76°40'23"E., FOR A DISTANCE OF 34.43 FEET; THENCE S.74°39'19"E., FOR A DISTANCE OF 31.42 FEET; THENCE N.33°17'43"E., FOR A DISTANCE OF 45.64 FEET; THENCE S.50°06'22"E., FOR A DISTANCE OF 44.91 FEET; THENCE S.51°25'26"E., FOR A DISTANCE OF 37.18 FEET; THENCE S.20°43'37"W., FOR A DISTANCE OF 32.29 FEET; THENCE S.16°04'12"E., FOR A DISTANCE OF 74.00 FEET; THENCE S.19°48'36"W., FOR A DISTANCE OF 60.59 FEET; THENCE S.02°25'26"W., FOR A DISTANCE OF 28.89 FEET; THENCE S.18°50'48"E., FOR A DISTANCE OF 71.58 FEET; THENCE S.29°10'55"E., FOR A DISTANCE OF 43.01 FEET TO A POINT ON THE EAST LINE OF THE WEST 1/2 OF THE WEST 1/2 OF THE NORTHEAST 1/4 OF SAID SECTION 10; THENCE S.00°13'00"W., ALONG SAID EAST LINE FOR A DISTANCE OF 30.89 FEET TO A POINT ON A AFOREMENTIONED NORTH LINE OF THE ABANDONED 100' RAILROAD RIGHT-OF-WAY; THENCE N.75°46'39"W., FOR A DISTANCE OF 684.59 FEET TO THE POINT OF BEGINNING

CONTAINING 231,765.30 SQUARE FEET OR 5.3206 ACRES, MORE OR LESS.

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LAWRENCE E. JENKINS
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION #5364
TETRA TECH - LB #26



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PHONE: 407-839-3855 FAX: 839-3790

CITY OF DELTONA

LED FORD PROPERTY
WETLAND DESCRIPTION

SKETCH OF DESCRIPTION
VOLUSIA COUNTY, FL

Project No.: 126020042123

Date: JUNE 4, 2010

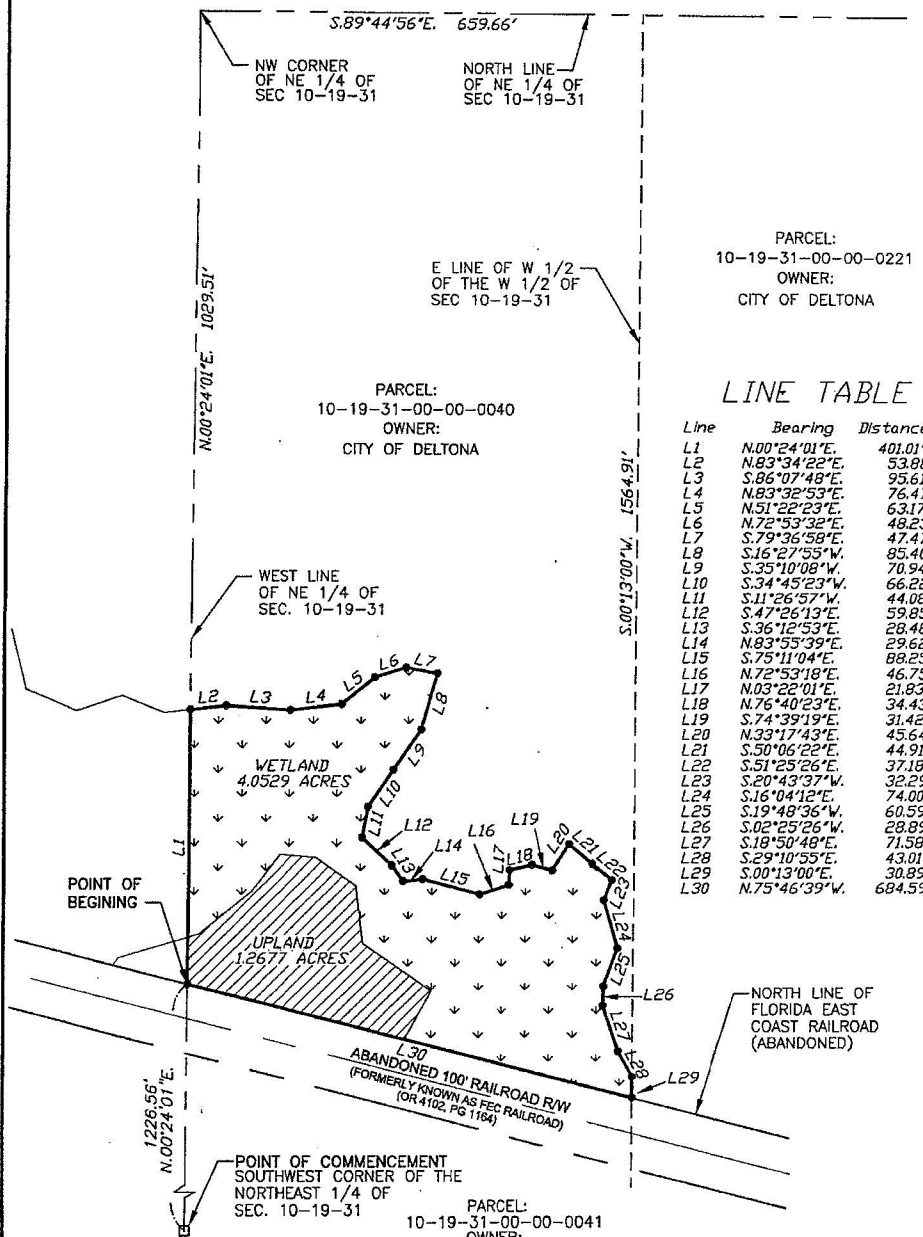
Designed By: LEJ

Supplemental

1 OF 2

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PARCEL:
10-19-31-00-00-0021
OWNER:
CITY OF DELTONA

LINE TABLE

Line	Bearing	Distance
L1	N.00°24'01"E.	401.01'
L2	N.83°34'22"E.	53.88'
L3	S.86°07'48"E.	95.61'
L4	N.83°32'53"E.	76.47'
L5	N.51°22'23"E.	63.17'
L6	N.72°53'32"E.	48.23'
L7	S.79°36'58"E.	47.47'
L8	S.16°12'55"W.	85.40'
L9	S.35°10'08"W.	70.94'
L10	S.34°45'23"W.	66.22'
L11	S.11°26'57"W.	44.08'
L12	S.47°26'13"E.	59.85'
L13	S.36°12'53"E.	28.48'
L14	N.83°55'39"E.	29.62'
L15	S.75°11'04"E.	88.25'
L16	N.72°53'18"E.	46.75'
L17	N.03°22'01"E.	21.83'
L18	N.76°40'23"E.	34.43'
L19	S.74°39'19"E.	31.42'
L20	N.33°17'43"E.	45.64'
L21	S.50°06'22"E.	44.91'
L22	S.51°25'26"E.	37.18'
L23	S.20°43'37"W.	32.29'
L24	S.16°04'12"E.	74.00'
L25	S.19°48'36"W.	60.59'
L26	S.02°25'26"W.	28.89'
L27	S.18°50'48"E.	71.58'
L28	S.29°10'55"E.	43.01'
L29	S.00°13'00"E.	30.89'
L30	N.75°46'39"W.	684.59'

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Lawrence E. Jenkins

LAWRENCE E. JENKINS
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA REGISTRATION #5364
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CITY OF DELTONA

LEDFORD PROPERTY
WETLAND DESCRIPTION

SKETCH OF DESCRIPTION
VOLUSIA COUNTY, FL

Project No.: 126020042123

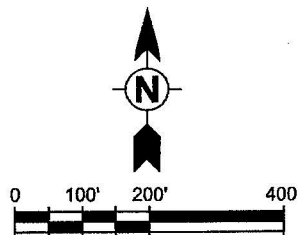
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2 OF 2

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LEGAL DESCRIPTION:

A PORTION OF LAND LYING WITHIN THE NORTHEAST 1/4 OF SECTION 10, TOWNSHIP 19 SOUTH, RANGE 31 EAST, VOLUSIA COUNTY, FLORIDA BEING MORE DESCRIBED AS FOLLOWS:

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CONTAINING 16,574.36 SQUARE FEET OR 0.3805 ACRES, MORE OR LESS.

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CITY OF DELTONA

LEDFORD PROPERTY
MAINTENANCE AREA OF DITCH

SKETCH OF DESCRIPTION
VOLUSIA COUNTY, FL

Project No.: 126020042123

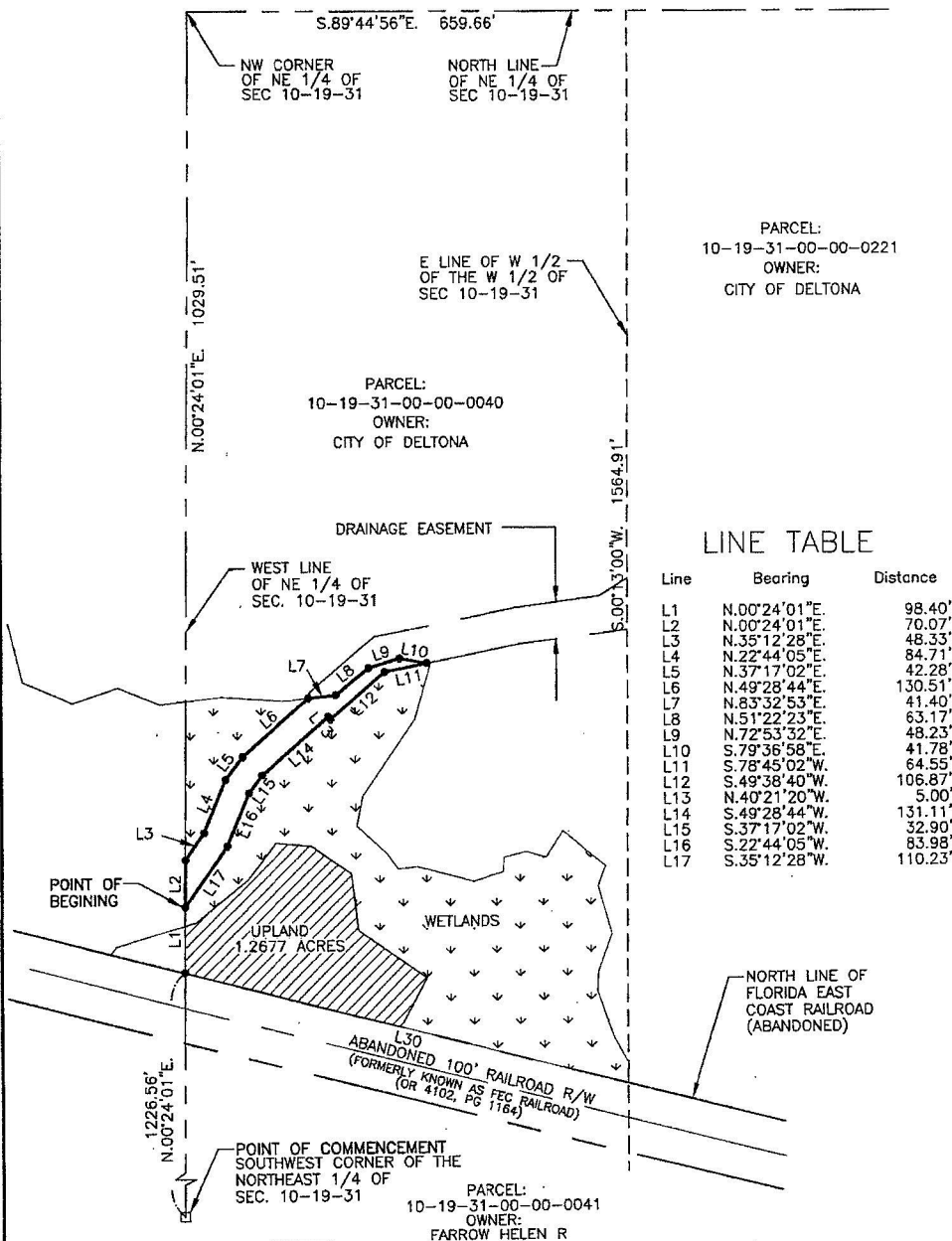
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1 OF 2

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LINE TABLE

Line	Bearing	Distance
L1	N.00°24'01"E	98.40'
L2	N.00°24'01"E	70.07'
L3	N.35°12'28"E	48.33'
L4	N.22°44'05"E	84.71'
L5	N.37°17'02"E	42.28'
L6	N.49°28'44"E	130.51'
L7	N.83°32'53"E	41.40'
L8	N.51°22'23"E	63.17'
L9	N.72°53'32"E	48.23'
L10	S.79°36'58"E	41.78'
L11	S.78°45'02"W	64.55'
L12	S.49°38'40"W	106.87'
L13	N.40°21'20"W	5.00'
L14	S.49°28'44"W	131.11'
L15	S.37°17'02"W	32.90'
L16	S.22°44'05"W	83.98'
L17	S.35°12'28"W	110.23'

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CITY OF DELTONA

LEDFOUR PROPERTY
MAINTENANCE AREA OF DITCH

SKETCH OF DESCRIPTION
VOLUSIA COUNTY, FL

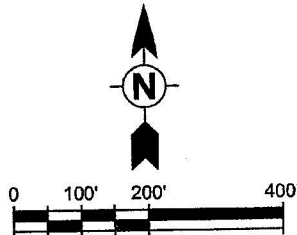
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Date: JUNE 4, 2010

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Item 7H